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1411811 (Refugee) [2015] AATA 3129 (2 July 2015)

DECISION RECORD

DIVISION:	Migration & Refugee Division
CASE NUMBER:	1411811
COUNTRY OF REFERENCE:	Malaysia
MEMBER:	David McCulloch
DATE OF WRITTEN STATEMENT:	2 July 2015
PLACE OF DECISION:	Sydney
DECISION:	The Tribunal affirms the decision not to grant the applicant a Protection visa.

STATEMENT MADE ON 02 JULY 2015 AT 9:42AM

Any references appearing in square brackets indicate that information has been omitted from this decision pursuant to section 431(2) of the *Migration Act 1958* and replaced with generic information which does not allow the identification of an applicant, or their relative or other dependant.

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STATEMENT OF DECISION AND REASONS

APPLICATION FOR REVIEW

1. This is an application for review of a decision made by a delegate of the Minister for Immigration to refuse to grant the applicant a Protection visa under s.65 of the *Migration Act 1958* (the Act).

2. The applicant who claims to be a citizen of Malaysia applied for the visa [in] November 2013 and the delegate refused to grant the visa [in] June 2014.

3. The applicant appeared before the Tribunal on 9 June 2015 to give evidence and present arguments. The Tribunal hearing was conducted with the assistance of an interpreter in the Mandarin and English languages.

4. The applicant was represented in relation to the review by his registered migration agent, who did not attend the hearing.

CONSIDERATION OF CLAIMS AND EVIDENCE

5. The criteria for a protection visa are set out in s.36 of the Act and Schedule 2 to the Migration Regulations 1994 (the Regulations). An applicant for the visa must meet one of the alternative criteria in s.36(2)(a), (aa), (b), or (c). That is, the applicant is either a person in respect of whom Australia has protection obligations under the 'refugee' criterion, or on other 'complementary protection' grounds, or is a member of the same family unit as such a person and that person holds a protection visa of the same class.

6. Section 36(2)(a) provides that a criterion for a protection visa is that the applicant for the visa is a non-citizen in Australia in respect of whom the Minister is satisfied Australia has protection obligations under the 1951 Convention relating to the Status of Refugees as amended by the 1967 Protocol relating to the Status of Refugees (together, the Refugees Convention, or the Convention).

7. Australia is a party to the Refugees Convention and generally speaking, has protection obligations in respect of people who are refugees as defined in Article 1 of the Convention. Article 1A(2) relevantly defines a refugee as any person who:

   > owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, is unable or, owing to such fear, is unwilling to return to it.

8. If a person is found not to meet the refugee criterion in s.36(2)(a), he or she may nevertheless meet the criteria for the grant of a protection visa if he or she is a non-citizen in Australia in respect of whom the Minister is satisfied Australia has protection obligations because the Minister has substantial grounds for believing that, as a necessary and foreseeable consequence of the applicant being removed from Australia to a receiving country, there is a real risk that he or she will suffer significant harm: s.36(2)(aa) ('the complementary protection criterion').

9. In accordance with Ministerial Direction No.56, made under s.499 of the Act, the Tribunal is required to take account of policy guidelines prepared by the Department of Immigration –PAM3 Refugee and humanitarian - Complementary Protection Guidelines and PAM3 Refugee and humanitarian - Refugee Law Guidelines – and any

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country information assessment prepared by the Department of Foreign Affairs and Trade expressly for protection status determination purposes, to the extent that they are relevant to the decision under consideration. The Tribunal has before it DFAT Country Report – Malaysia, 3 December 2014. Various parts of the report referred to in this decision.

10. The issue in this case is the credibility of the applicant and whether, on his accepted claims, he fulfils the criteria for protection. For the following reasons, the Tribunal has concluded that the decision under review should be affirmed.

Background and complementary protection criterion only

11. The applicant arrived in Australia [in] June 2005, on a Visitor visa that had been applied for [in] May 2005. [In] July 2005, the applicant applied for a Protection visa which was refused by the Department [in] August 2005. An application for a review by the Tribunal affirmed the Department's decision on 18 December 2005. That decision was unsuccessfully appealed to the Federal Court, the Full Federal Court and the High Court. From May 2008, the applicant remained in Australia as an unlawful non-citizen. The applicant was detained at [an] Immigration Detention Facility [during] November 2013. The current Protection visa application was lodged [in] November 2013.

12. The current application is allowed as a result of the Federal Court decision of *SZGIZ v MIAC* (2013) 212 FCR 235, dated 3 July 2013. This allows a further protection visa application to be made before 28 May 2014 under the complementary protection criterion in a situation whereby the person's prior protection visa application was made and refused prior to the commencement of the complementary protection criterion on 24 March 2012. This means that the Refugee Convention aspect of the applicant's claims has been determined and the matter before the Tribunal relates only to complementary protection criterion (section 36(2)(aa) of the Act).

Claims

13. In a written attachment to the 2005 Protection visa application, the applicant indicated that he left Malaysia because of the discrimination and bias towards the Chinese minority. The applicant indicated that if he returns to Malaysia he would suffer racial discrimination and persecution, and that the Chinese are more easy targets of gangsters. It is indicated that the government is not in a position to assist and is corrupt. The applicant indicated that he did not have a chance to go to university due to his ethnicity. The applicant indicated it took almost three years to get a licence for his business due to the fact that the applicant was Chinese, so the government made excuses to prolong the processing time of his application. The applicant indicated that after his business started, he needed to pay higher taxes, higher rents and comply with tougher regulations.

14. The applicant did not appear to give evidence in respect of the Tribunal review of the refusal of his 2005 Protection visa application.

15. In the current Protection visa application form the applicant has written that he fears being persecuted by authorities, being extorted by officials and harmed by debt collectors. The applicant indicated that when operating his [business] in Malaysia, in order to get a contract from the government he had to pay a large sum of money demanded by corrupt officials, due to the applicant being Chinese. After this money was taken, he did not receive the contract. As a result, the applicant was unable to run the business and pay back the money he borrowed from the illegal moneylenders. The applicant claims that he will be harmed by debt collectors if he is returned to Malaysia.

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He claims that he would be persecuted and jailed if he reports the corrupt conduct of officials.

16. The applicant, in the interview with the delegate of the Minister with respect to the current application, was asked about his Protection claims in 2005 which made no mention of claims of specifically having to pay bribes or owing money to moneylenders. The applicant said that this application was prepared by an agent and he had no knowledge of what was in the application. The delegate pointed out that the form indicated that the applicant had completed it without the assistance of an agent.

17. During the interview with the delegate of the Minister in respect of the current application, the delegate made reference to a record of an interview held with the applicant by Departmental officers when he was approached on compliance issues in November 2013. The delegate indicates that the applicant was asked at the interview whether he had debts in Australia or Malaysia and he answered 'no'. The applicant in the interview indicated that the situation surrounding the interview was very chaotic and he did not think he was asked that. The delegate also indicated that the applicant was asked in the compliance interview why he could not return to Malaysia and the response the applicant gave was that he would prefer to stay in Australia because the economy is bad in Malaysia. The applicant was asked why he did not mention any fears of other harm. The applicant indicated that from his recollection he was not asked those sort of questions and he was very nervous.

18. The delegate asked the applicant about his claim that he was denied university education due to his Chinese background. The applicant indicated that he was not familiar with this claim and, again, indicated that it had been prepared by an agent.

19. The applicant was asked questions and elaborated on the factual claims made as part of the current Protection visa application. In terms of the bribes he had to pay, the applicant said that he would frequently pay amounts of RM200 to 300 which was paid to an intermediary to get channeled to higher officials. He says that this money would be paid in meetings in public – in parks or cafes, with the money being placed in an envelope or in a notebook.

20. In terms of the difficulties obtaining a licence for the applicant to get his business, he said he needed to pay money to get his business registration and that when officials would come to look at the business he had to pay money. He also indicated that for every client he had to pay a fee which became higher and higher. The applicant indicated that he did not have a good relationship because he said he would report them to the corruption bureau. The applicant believes that he would now be on a blacklist, and have no chance of getting business, and may even be placed in jail because officials would frame him.

21. Initially, in the interview with the delegate, the applicant said he was unable to say which agency or organisation the money was paid to as it was paid through a middleman. Later in the interview the applicant said that money was paid to the business registration department.

22. Initially in the interview, the applicant said that he took out a loan while the business was operating to pay rent and wages. Later in the hearing the applicant said that the loan was obtained before the business was commenced as start-up capital.

23. The applicant says that he owes the moneylenders about RM50,000. The applicant indicated that he found out about the illegal moneylenders from an advertisement in the newspaper. He says that the name of the company was [name]. He indicated that

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the term of the loan was an interest rate of 13 per cent if 50 percent of the loan was repaid within five years. If that amount was not paid back then this amount had to be paid back every month – roughly RM1000. The applicant indicated that he made some repayments on the loan. He said that the first repayment was around RM2000, but then as his business deteriorated this reduced to RM1000.

24. The applicant in the interview with the delegate indicated that after his business collapsed, the moneylenders were demanding the repayment of the whole amount. The delegate asked why they would not agree to payments in installments, as had occurred to date. The applicant said that this was because his business had collapsed. The applicant indicated that he had not paid any money back to the moneylenders from his wages in Australia because they wanted the whole amount. The applicant indicated that he had paid money back to his brother from whom he had borrowed money for the trip to Australia.

25. The applicant said that he had been threatened by the moneylenders and that they had ‘messed up’ his place and pushed him. The applicant fears that he will be bashed by these moneylenders should he be returned to Malaysia, and they would be in a position to locate him wherever he may be in Malaysia. The applicant also indicated to the delegate that these moneylenders would be able to pay police to have the applicant put in prison.

26. The applicant claims that he will also be harmed as a result of being a failed asylum seeker and this will cause the authorities to consider that he has been disloyal to Malaysia and he will be placed in prison.

Hearing, credibility, findings and assessment

27. In considering overall the credibility of the applicant the Tribunal is cognizant of the words of Beaumont J in *Randhawa v MILGEA* (1994) 52 FCR 437 at 451 in which he stated that ‘in the proof of refugeehood, a liberal attitude on the part of the decision-maker is called for…[but this should not lead to]…an uncritical acceptance of any and all allegations made by supplicants’. The Tribunal notes also the remarks of Gummow and Hayne JJ in *Abebe v Commonwealth of Australia* (1999) 197 CLR 510 at 191 where is was said that ‘the fact that an applicant for refugee status may yield to temptation to embroider an account of his or her history is hardly surprising’. The Tribunal has sought to adopt the liberal approach outlined in these cases.

28. The Tribunal is satisfied that the applicant is a citizen of Malaysia, and accordingly his claims will be assessed against Malaysia.

29. The Tribunal asked applicant in the hearing if he had intended to go to university and he said that he did not. The Tribunal put to the applicant the claim as part of the original Protection visa application that he did not get to go to university due to his ethnicity. The Tribunal asked the applicant if he was maintaining a claim on this basis, noting that in the interview with the delegate of the Minister, the applicant indicated that he was not familiar with this claim which had been prepared by an agent. In the hearing, the applicant gave contradictory and confusing evidence as to whether he was maintaining a claim of being denied university education due to his ethnicity. Eventually, the applicant said that it was ‘very hard to say’.

30. Given the contradictory evidence on this point, and the clear evidence before the delegate of the Minister that the applicant was not making a claim on the basis of being denied entry to university, the Tribunal is not satisfied that the applicant was denied access to university on the basis of his ethnicity.

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31. The Tribunal explored with the applicant general claims of discrimination and harm based on his ethnicity, and asked the applicant for specific instances of this occurring. The applicant provided, as the only indication of discrimination or harm, being required to pay bribes, which the applicant in hearing said occurred because he was Chinese. An assessment of the applicant's claims as to being made to pay bribes is detailed below.

32. In terms of the applicant's claim as part of the first Protection visa application that it took almost three years to get a licence for his business due to the fact that he was Chinese, the applicant in the hearing of the Tribunal said that he had no difficulties obtaining a licence to operate his [business]. Given that evidence, the Tribunal is not satisfied that the applicant faced difficulty getting a licence to operate his business on the basis of his ethnicity, or otherwise.

33. In terms of the applicant's claim to fear harm on the basis of the payment of bribes to government officials, and a threat that they will blacklist him or cause him harm due to the applicant threatening to report corruption, and the applicant's claims that he is at risk of harm from underground moneylenders, the Tribunal has considerable issues with the credibility of these claims as a result of two key issues.

34. **Firstly**, the Tribunal notes that as part of the first application for a Protection visa the applicant failed to make claims on these grounds. This is noted in the decision of delegate with respect to the current application, which has been provided to the Tribunal by the applicant. Whilst the applicant made a general reference to the government being corrupt and that the Chinese are more easy targets of gangsters, the applicant made no specific claim that had been subject to harm on these grounds. In the hearing, the applicant said that he told his claims to an agent but he did not know what the agent put in the forms. The Tribunal indicated to the applicant that it found this difficult to accept. The applicant had previously indicated and confirmed in the hearing that he researched protection visa options before coming to Australia, and that he came to Australia for the purpose of seeking protection. The Tribunal noted to the applicant that he was a businessman with an obvious degree of intelligence and ran a business that was all about [deleted]. The Tribunal indicated that it seemed implausible that the applicant would allow claims to be made by a third party that he was not aware of, given how crucial the application was to the applicant's future. The Tribunal notes that the applicant's first protection visa application form indicated that he read and spoke English, and that he did not have assistance with the preparation of the form. The applicant said that his English level is not high. The applicant indicated that the form and his claims were not read by him and were prepared by a lawyer whose name or office he was unable to recall.

35. The Tribunal does not consider it credible that the applicant would have allowed claims to be made as part of his first Protection visa application that he was not aware of, unless he had a total disregard for the claims that were put forward as a result of having no legitimate claims of his own. The Tribunal considers that if the applicant actually was paying bribes, and/or feared future harm from the government as a result, and/or was subject to threats of harm from underground moneylenders, that he would have included these claims as part of his initial Protection visa application. This is particularly the case given that in the hearing the applicant said that these were the reasons that he left Malaysia and that he had researched Protection visa options.

36. The Tribunal is conscious that claims on the basis of harm from underground moneylenders are possibly not claims which have a Refugees Convention nexus, and given that the initial application was considered only under the Refugees Convention criterion, the failure to include a claim on this basis could have been because it was

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not considered relevant under the Refugees Convention. The applicant did not explain the omission on this basis in the hearing. The Tribunal notes that the applicant made the claim as part of his first Protection visa application that Chinese are more easy targets of gangsters. Given this claim, the Tribunal considers it logical that, if it were true, the applicant would have made reference to threats from underground moneylenders.

37. The failure to make a claim based on the payment of bribes is not explicable on the same basis as the applicant has said that he was specifically targeted for bribes because he was Chinese.

38. In summary, the Tribunal draws significant adverse inference from the failure of the applicant to make claims of harm based on the payment of bribes, and harm from underground moneylenders, as part of his original application for a Protection visa in 2005.

39. **Secondly**, a record of a Compliance Client Interview of the Department of Immigration held with the applicant [in] November 2013 records that the applicant indicated that he owed no money, and did not make a claim to fear harm on the basis of unpaid debts, bribes to government officials or on the basis of ethnicity, despite a specific question as to fear of returning to Malaysia. The record of interview records that the applicant was asked whether he had any debts in Australia or overseas and the form indicates that he answered 'no'. In addition, the document records that the applicant was asked if there are any reasons why he cannot return to his home country. The form records the applicant as responding that he prefers to stay in Australia because the economy in Malaysia is 'pretty bad'.

40. In the hearing, this information was put to the applicant pursuant to the procedural requirements of s.424AA of the Migration Act. It was noted that information about lack of debt is relevant because it is inconsistent with the claims as to threats from underground moneylenders to whom the applicant owes money. It was noted that information about the reason why the applicant fears returning to Malaysia is relevant because it fails to make claims on the basis of unpaid debts, the payment of bribes or discrimination or persecution on the basis of being Chinese Malaysian. It was noted that the consequence of the Tribunal relying on this information would be to question whether the applicant had an actual fear on these grounds or if there was a well founded fear on these grounds of returning to Malaysia.

41. The applicant said that the interview was a 'mess' with five or six immigration officers at his home. He said that his mind went blank. The Tribunal put to the applicant that he was answering fairly simple questions. He said that he was scared. He said that he was afraid that he would be sent back to Malaysia. The Tribunal put to the applicant that if he feared being sent back them he would logically be telling the officers why he feared being sent back. The applicant said the situation was that they had too many people. The applicant said that his mood was not stable. The applicant said that he did not quite understand what was being asked of him. The applicant said that the people there were not friendly.

42. The applicant also commented that he provided information about the claims of bribery and underground money at the interview with the delegate of the Minister. The Tribunal noted to the applicant that these claims were made in April 2014, following the compliance interview. The Tribunal also notes that the claims relating to underground moneylenders and bribes were made for the first time in the applicant's second Protection visa application which was lodged [in] November 2013, four days after the compliance interview.

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43. None of the applicant's explanations ameliorate the impact of the applicant's clear responses to simple questions, in which the applicant clearly indicates that he does not have debts in Malaysia or Australia, and that his fear of harm of returning to Malaysia is due to to the economic situation. Notwithstanding any difficulties in the circumstances surrounding the interview, the applicant would have had a huge incentive in answering questions to articulate specific matters on which he feared harm of returning to Malaysia.

44. The Tribunal draws significant adverse inference from the failure of the applicant to make relevant claims in the compliance interview.

45. Considering these two issues, the Tribunal is not satisfied the that the applicant has been a witness of truth in relation to these matters, or that the applicant fears harm on these grounds.

46. The Tribunal is not satisfied that the applicant: paid bribes to secure licences from government officials; was extorted by officials; was denied licences despite the payment of bribes; threatened to report corrupt conduct; or was himself threatened with harm as a result of threats to report corrupt conduct.

47. The Tribunal therefore is not satisfied that there is any past harm suffered by the applicant in terms of the payment of bribes, extortion by officials, denial of licences, threats of retaliation for reporting corrupt activity, that provides a foundation for a real risk of significant harm to the applicant should he return to Malaysia.

48. While the Tribunal is satisfied that the applicant would have paid taxes, rents and complied with regulations as part of his business it is not satisfied that this has occurred in any discriminatory way or that it constitutes significant harm.

49. While the Tribunal is prepared to accept that the applicant borrowed money, possibly from an underground moneylender, the Tribunal considers that any money borrowed has been repaid either when the applicant was in Malaysia or Australia. The Tribunal is not satisfied that the underground moneylenders have threatened the applicant whilst he was in Malaysia or harmed him in any way, for the reasons outlined. The Tribunal is not satisfied that underground money lenders would seek to harm the applicant should he return to Malaysia on the basis of unpaid debts. The Tribunal is not satisfied that there are moneylenders who would have influence over police or authorities to cause harm to the applicant.

50. The Tribunal is not satisfied that there is a real risk of significant harm to the applicant from moneylenders, either directly or indirectly, should he return to Malaysia.

51. In summary, the Tribunal is not satisfied that there are substantial grounds for believing that, as a necessary and foreseeable consequence of the applicant being removed from Australia to Malaysia, there is a real risk that he will suffer significant harm as a result of the payment of bribes, denial of licences, action that may be taken by government officials as a result of threats by the applicant to report behaviour, or significant harm from underground money lenders to whom the applicant owes money, or significant harm on the basis of the payment of rents, taxes and the need to comply with regulations.

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52. In terms of general claims on the basis of persecution and discrimination against Chinese Malaysians, the Tribunal provided to the applicant DFAT Country Report – Malaysia, 3 December 2014 and provided an overview of the following[1]:

> Malaysian Chinese constitute one of the largest overseas Chinese communities in the world and are the second largest ethnic group in Malaysia. There are no laws or constitutional provisions that directly discriminate against ethnic Chinese in Malaysia.
>
> Malaysian Chinese make up a high percentage of the professional and educated class and dominate business and commerce sectors. The majority of ethnic Chinese are concentrated in the west coast states of Peninsula Malaysia with significant percentages (30 per cent and above) living in the large urban centres, including Kuala Lumpur, Penang, Johor, Perak and Selangor.
>
> Malaysian Chinese freely participate in political life and are represented by ministers in the current cabinet and in opposition parties. The largest Chinese party was traditionally the Malaysian Chinese Association (MCA), a component of the Barisan Nasional (BN) coalition. The MCA won seven seats at the 2013 election, down from 15 in 2008. An increasing number of Chinese support the Democratic Action Party (DAP), one of three key opposition parties of the Pakatan Rakyat (People's Alliance) coalition. The DAP won 38 seats at the 2013 election, a significant increase from the 28 seats in 2008. There are comparatively fewer ethnic Chinese in the Malaysian civil service. The exclusive use of the Malay language may be a restriction in this regard.
>
> Malaysian Chinese generally have no problems in accessing public primary or high school education. However, despite the removal of government-sanctioned ethnic quotas for public universities in 2002,admission decisions remain heavily biased towards ethnic Malays. Malaysia's matriculation programs favour *bumiputera* students applying for entrance to state universities. Some ethnic Chinese are not awarded a place in public universities despite having perfect high school matriculation scores. Since the formation of private universities in Malaysia, ethnic Chinese have consistently formed the bulk of the students within Malaysia's non-government universities.
>
> DFAT assesses that ethnic Chinese generally do not experience discrimination or violence on a day-to-day basis. However, they may face low levels of discrimination when attempting to gain entry into the state tertiary system or the civil service.

53. The Tribunal put to the applicant that this independent information would not support the proposition that Chinese Malaysians are subject to systemic persecution or discrimination in Malaysia. The applicant said that all Chinese who become successful have suffered to get there.

54. The Tribunal has not been satisfied that the applicant was denied entry to tertiary education, including for any discriminatory reason based on race. The Tribunal has not been satisfied that the applicant was required to pay bribes due to his ethnicity.

55. The Tribunal is not satisfied that the independent information establishes that there is any generic risk to the applicant of significant harm based on his ethnicity, including being targeted by gangsters. The Tribunal is not satisfied that there is anything in the applicant's background or profile which would put him at a risk of significant harm based on his ethnicity.

56. The Tribunal is not satisfied that there are substantial grounds for believing that, as a necessary and foreseeable consequence of the applicant being removed from Australia to Malaysia, there is a real risk that he will suffer significant harm based on his Chinese ethnicity.

[1] DFAT Country Report – Malaysia, 3 December 2014, paras 3.5-3.9

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57. In terms of the applicant's claim to fear harm on the basis of being a failed asylum seeker and being perceived as being disloyal to Malaysia and possibly put in jail, the Tribunal referred the applicant to DFAT Country Report – Malaysia, 3 December 2014[2]:

> In Malaysia, 95 per cent of returnees were voluntary. The International Organisation for Migration (IOM) assists voluntary returnees to Malaysia. Malaysian authorities cooperate with the IOM in these arrangements. People who return to Malaysia after several years' absence are unlikely to face adverse attention on their return on account of their absence. Likewise, failed asylum seekers would be unlikely to face adverse attention on account of their failed application for asylum if they returned to Malaysia.
>
> Malaysian officials generally pay little regard to failed asylum seekers upon their return, although it is possible that some individuals might be questioned upon entry or have their entry delayed. Many thousands of Malaysians enter and leave the country every day. Malaysians that over-stayed their work or tourist visas in other countries are regularly returned to Malaysia with no attention paid to them by authorities. Even high profile individuals, such as opposition leader Anwar Ibrahim, move in and out of Malaysia without interference.

58. When the substance of this information was put to the applicant in the hearing he indicated that what actually happens to people is not reported. The Tribunal does not accept this given the extensive networks of DFAT.

59. Based on the DFAT assessment, and given the absence of any independent information provided by the applicant to the contrary, the Tribunal is not satisfied that there is a real risk of significant harm to the applicant on the basis of being a failed asylum seeker. The Tribunal is not satisfied that there are substantial grounds for believing that, as a necessary and foreseeable consequence of the applicant being removed from Australia to Malaysia there is a real risk that he will suffer significant harm on the basis of being a failed asylum seeker.

60. Given the above, and considering the applicant's claims both singularly and cumulatively, the Tribunal is not satisfied that the applicant is a person in respect of whom Australia has protection obligations under the complementary protection criterion. Therefore the applicant does not satisfy the criterion set out in s.36(2)(aa).

61. There is no suggestion that the applicant satisfies s.36(2) on the basis of being a member of the same family unit as a person who satisfies s.36(2)(a) or (aa) and who holds a protection visa. Accordingly, the applicant does not satisfy the criterion in s.36(2).

DECISION

62. The Tribunal affirms the decision not to grant the applicant a Protection visa.

David McCulloch
Member

[2] DFAT Country Report – Malaysia, 3 December 2014, paras 5.23-5.24

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